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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,161	07/20/2005	Soo-Hwan Kim	MAC-10791	7897
23123 7590 10/09/2007 SCHMEISER OLSEN & WATTS 18 E UNIVERSITY DRIVE SUITE # 101 MESA, AZ 85201			EXAMINER YIP, WINNIE S	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 10/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/543,161	Applicant(s) KIM, SOO-HWAN	
	Examiner Winnie Yip	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/30/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action .

Drawings

1. Figures 1-3, as described in the specification, should be designated by a legend such as -- Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2-3, the structural limitations are recited with respect to spreaders. However, it confusing what is the relationship between these structural limitations and the term "elastic means" as previously recited in claim 1. If these limitations are further limit the "elastic means" of claim 1, the relationship between the elements must be clearly defined. For example, use language of "said elastic means comprises"

Art Unit: 3636

Regarding claim 1, the word "means" is preceded by the word(s) "elastic" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,581,617 to Ham et al. in view of US Patent No. 5,564,453 to Steiner.

Ham et al. show and disclose an automatic canopy tent comprising a canopy () being supported by a collapsible frame (12) anticipated as claimed invention, the frame comprising: a rib holder (14) with a plurality of upper ribs (24) rotatably coupled to the rib holder in radial directions; a connection member (14) mounted to the rib holder; a spreader holder (16) engaging with the connection member and being movable upwards and downwards; a plurality of spreaders (28) each coupled at respective ends thereof to a corresponding upper rib and to the spreader holder, thus expanding or closing the upper ribs in radial directions in response to upward or downward movement of the spreader holder; and a stopper (20) mounted to a lower end of the connection member and preventing the spreader holder from being removed from the

Art Unit: 3636

connection member, a rope connector (22) mounted to the lower end of the stopper and holding a tension rope extending from a center of a ceiling part of the canopy.

Except, Ham et al. do not define the spreaders having elastic means to provide an extendible spreader as claimed. Steiner teaches a collapsible frame for an umbrella, the frame comprising a plurality of spreaders (21' or 50, or 50') being pivotally coupled between a spreader holder (55) and an upper rib (1), the spreaders each having a first spreader part (100) being inserted into second spreader part (95), a spring (103) disposed in the second spreader part (95) bias the first spreader part outward in a general telescopic manner to provide a elastic means in the spreader for providing an expandable spreader with respect to the upper ribs to open and close the umbrella. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the frame of the tent of Ham et al. having the spreaders each having an elastic means as taught by Steiner for elastically extending the spreaders with respect to the upper ribs for easily open and close the frame.

In regard to claim 3, although Steiner does not teach the elastic means having alternative structures as claimed, however, as defined in the application, it has been common practice to one skilled in the frame construction art, to modify a tent of Ham et al. with a collapsible frame having an elastic means as taught by Steiner or other alternative structures as claimed since it would have been an obvious matter of design choice to one ordinary skill in the art to achieve the same predictable result of providing a tent have expandable and retractable spreaders for supporting the upper ribs for easily closing and opening the tent.

Allowable Subject Matter

6. Claim 4 is allowed.

Art Unit: 3636

7. Claims 5-6 are objected to as being multiple dependent upon a rejected base claim 1, but would be allowable if rewritten in a dependent form as depending to a proper independent claim 4, or if rewritten as a independent form to include all of the limitations of the base claim 4.

8. The following is an examiner's statement of reasons for allowance: The prior art of record, whether taken individually or in combination, does not reveal or render obvious a frame for a tent comprising each of spreaders comprising a movable block and a spring disposed between two stoppers, and the movable block being integrated with a coupling rod coupled to each upper rib in combination as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Citations

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moss '641, Lin '954, Lin et al. '770, Chai et al. '923, Teate, Jr. 172, Tseytlin et al. '245, Jp NO. 144383, and German Patent NO. 3600238, and German Patent No. 3708921 teach various umbrella frames comprising spreaders having elastic means as similar to the claimed invention. Jung '399, Lee '646, Long et al. '794, Taylor '634, Watts '054, Watts et al. '363, Rupert '287, Maiken '146, and Rousselle et al. '572 teach various tent having a collapsible umbrella type frames as similar to the claimed invention.

Art Unit: 3636

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy
September 24, 2007